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**Sent:** 9/12/2013 8:11:24 AM  
**Subject:** Harrisburg Patriot-News (9-12) Attorney general's criminal charges against drilling company likely based on referral from Hanger's DEP

## Attorney general's criminal charges against drilling company likely based on referral from Hanger's DEP

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September 11, 2013 at 10:57 AM

Former Department of Environmental Protection Secretary John Hanger said he is "almost 100 percent sure" that environmental regulators under his command referred the spill of more than 50,000 gallons of drilling waste water by XTO to the Attorney General's Office.

"I asked the staff to do so," said Hanger in an interview Wednesday morning.

Attorney General Kathleen Kane filed criminal charges against XTO, a Pennsylvania subsidiary of ExxonMobil, on Tuesday afternoon.

XTO was charged with five counts of unlawful conduct under the Clean Streams Law and three counts of unlawful conduct under the Solid Waste Management Act for illegally discharging more than 50,000 gallons of toxic wastewater from a Marcellus Shale gas well site in November 2010 in Penn Township, Lycoming County.

Industry and business groups have criticized Kane for "over-reach" in filing the charges, because XTO said the spill was accidental and it had entered into a consent decree with the federal government to not only remediate the site but to improve operations throughout the Northeast to above industry standards at the time.

Hanger said Wednesday morning that the normal process for the attorney general to investigate environmental crimes was on referral from DEP.

"We regularly made referrals to the attorney general," said Hanger, who was in the final months of his tenure at DEP when the XTO incident occurred. "In cases where there was conduct in our mind that could be criminal, we referred."

"It's a critically important thing for DEP to do," said Hanger.

Hanger said DEP has only civil jurisdiction — "We're not prosecutors" — so it's important for the agency to refer cases to prosecutors in the Attorney General's Office for it to decide the merits of criminal prosecution.

Hanger recalled at least one case that was referred by his office and prosecuted criminally by the Attorney General's Office: a case of a sub-contracted hauler charged with dumping wastewater.

It is unclear why it took nearly three years for criminal charges to be filed in the XTO case. Kane's critics claim the prosecution is politically motivated.

The attorney general's spokespeople were all busy, a receptionist said Wednesday morning. Any questions were asked to be emailed to Kane's office.

Hanger is running for the Democratic nomination for governor, and recently gained the public support of a host of families from Dimock who said they appreciated Hanger fighting for their interests after methane seeped into their water wells as a result of Marcellus drilling by Cabot Oil & Gas.

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